

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Case No. 2:13-cr-029-APG-GWF

Plaintiff,

**ORDER ACCEPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATION ON MOTION TO
DISMISS**

DAVID ALLAN GARRETSON.

(Dkt. #50, 79)

On April 8, 2013, defendant David Garretson filed a Motion to Dismiss Count Six of the Indictment [Dkt #50]. On June 12, 2013, Magistrate Judge Foley entered his Findings and Recommendations [Dkt #79] recommending that Defendant Garretson's Motion to Dismiss be denied. Garretson filed an Objection [Dkt #84] to the Findings and Recommendations and the Government filed a Response [Dkt. #103]. Pursuant to Local Rule IB 3-2(b), the court has conducted a *de novo* review of the motion to dismiss, Findings and Recommendations, and related papers. The Court finds the Findings correct, well-reasoned and thorough, and adopts them in every respect. In addition, the Court notes that in *U.S. v. Sanchez*, 639 F.3d 1201, 1205 (9th Cir. 2011) – the case primarily relied upon by Garretson -- the Ninth Circuit specifically noted that 18 U.S.C. §922(g)(8)(B) “does not include [18 U.S.C. §922(g)](8)(C)(ii)’s ‘by its terms explicitly’ language. Context suggests that (8)(C)(i) and (8)(C)(ii) require something more than what (8)(B) requires.” This further supports Judge Foley’s analysis and conclusions. Accordingly,

IT IS HEREBY ORDERED that the Magistrate Judge Foley's Findings and Recommendations [Dkt #79] are accepted and approved in their entirety.

Dated: October 28, 2013.


ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE